

SOURCE: 64 FR 67153, Dec. 1, 1999, unless otherwise noted.

#### § 2015.1 Purpose.

The purpose of this part is to provide for the implementation of the tariff-rate quota for sugar-containing products established as a result of the Uruguay Round Agreements, approved by the Congress in section 101 of the Uruguay Round Agreements Act (Pub. L. 103-465). In particular, this part provides for the administration of export certificates where a country that has an allocation of the in-quota quantity under a tariff-rate quota has chosen to use export certificates.

#### § 2015.2 Definitions.

For the purpose of this subpart, the following terms shall have the following meanings:

(a) *In-quota sugar-containing products* means any article classified under any of the subheadings of the HTS specified in additional U.S. note 8 to chapter 17 of the HTS that is entered under the in-quota rate of duty.

(b) *Allocated country* means a country to which an allocation of a particular quantity of sugar-containing products has been assigned.

(c) *Enter* or *Entered* means to enter, or withdraw from warehouse, for consumption.

(d) *HTS* means the Harmonized Tariff Schedule of the United States.

(e) *Participating Country* means any allocated country that USTR has determined is, and has notified the U.S. Customs Service as being, eligible to use export certificates.

(f) *USTR* means the United States Trade Representative or the designee of the United States Trade Representative.

#### § 2015.3 Export certificates.

(a) To claim the in-quota rate of duty on sugar-containing products of a participating country, the United States importer must make a declaration to the United States Customs Service, in the form and manner determined by the United States Customs Service, that a valid export certificate is in effect with respect to those sugar-containing products.

(b) To be valid, an export certificate shall:

(1) Be issued by or under the supervision of the government of the participating country;

(2) Specify the name of the party to whom the certificate is issued, the product description and quantity, shipment date, and the quota year for which the export certificate is in effect;

(3) Have a distinct and uniquely identifiable number; and

(4) Be used in the quota year for which it is in effect.

### PART 2016—PROCEDURES TO PETITION FOR WITHDRAWAL OR SUSPENSION OF COUNTRY ELIGIBILITY OR DUTY-FREE TREATMENT UNDER THE ANDEAN TRADE PREFERENCE ACT (ATPA), AS AMENDED

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AUTHORITY: 19 U.S.C. 3201, *et seq.*; sec. 3103(d), Pub. L. 107-210; 116 Stat. 933; E.O. 13277, 67 FR 70303.

SOURCE: 68 FR 43924, July 25, 2003, unless otherwise noted.

#### § 2016.0 Requests for reviews

(a) Any person may submit a request (hereinafter "petition") that the designation of a country as an Andean Trade Preference Act (ATPA) beneficiary country be withdrawn or suspended, or the application of preferential treatment under the ATPA to any article of any ATPA beneficiary country be withdrawn, suspended, or limited. Such petitions should: include the name of the person or the group requesting the review; identify the ATPA beneficiary country that would be subject to the review; if the petition is requesting that the preferential treatment of an article or articles be withdrawn, suspended, or limited, identify such article or articles with particularity and explain why such article or

articles were selected; indicate the specific section 203(c) or (d) (19 U.S.C. 3202(c), (d)) eligibility criterion that the petitioner believes warrant(s) review; and include all available supporting information. The Andean Subcommittee of the Trade Policy Staff Committee (TPSC) may request other information. If the subject matter of the petition was reviewed pursuant to a previous petition, the petitioner should consider providing the Andean Subcommittee with any new information related to the issue.

(b) Any person may submit a petition that the designation of a country as an Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary country be withdrawn or suspended, or the application of preferential treatment to any article of any ATPDEA beneficiary country under section 204(b)(1), (3), or (4) (19 U.S.C. 3202(b)(1), (3), (4)) be withdrawn, suspended, or limited. Such petitions should: Include the name of the person or the group requesting the review; identify the ATPDEA beneficiary country that would be subject to the review; if the petition is requesting that the preferential treatment of an article or articles be withdrawn, suspended, or limited, identify such article or articles with particularity and explain why such article or articles were selected; indicate the specific section 204(b)(6)(B) (19 U.S.C. 3203(b)(6)(B)) eligibility criterion or criteria that the petitioner believes warrant(s) review; and include all available supporting information. The Andean Subcommittee may request other information. If the subject matter of the petition was reviewed pursuant to a previous petition, the petitioner should consider providing the Andean Subcommittee with any new information related to the issue.

(c) All petitions and other submissions should be submitted in accordance with the schedule (*see* § 2016.2) and requirements for submission that The Office of the United States Trade Representative (USTR) will publish annually in the FEDERAL REGISTER in advance of each review. Foreign governments may make submission in the form of diplomatic correspondence and should observe the deadlines for each

annual review published in the FEDERAL REGISTER.

(d) The TPSC may at any time, on its own motion, initiate a review to determine whether: the designation of a country as an ATPA beneficiary country should be withdrawn or suspended; the application of preferential treatment under the ATPA to any article of any ATPA beneficiary country should be withdrawn, suspended, or limited; the designation of a country as an ATPDEA beneficiary country should be withdrawn or suspended; or the application of preferential treatment to any article of any ATPDEA beneficiary country under section 204(b)(1), (3), or (4) (19 U.S.C. 3202(b)(1), (3), or (4)) should be withdrawn, suspended, or limited.

(e) Petitions requesting the action described in paragraph (a) or (b) of this section that indicate the existence of exceptional circumstances warranting an immediate review may be considered outside of the schedule for the annual review announced in the FEDERAL REGISTER. Requests for such urgent consideration should contain a statement of reasons indicating why an expedited review is warranted.

#### **§ 2016.1 Action following receipt of petitions.**

(a) USTR shall publish in the FEDERAL REGISTER a list of petitions filed in response to the announcement of the annual review, including the subject matter of the request and, where appropriate, the description of the article or articles covered by the request.

(b) Thereafter, the Andean Subcommittee shall conduct a preliminary review of the petitions, and shall submit the results of its preliminary review to the TPSC. The TPSC shall review the work of the Andean Subcommittee and shall conduct further review as necessary. The TPSC shall prepare recommendations for the President on any proposed action to modify the ATPA. The Chairman of the TPSC may, as appropriate, convene the Trade Policy Review Group (TPRG) to review the matter, and thereafter refer the matter to the USTR for Cabinet-level review as necessary.

(c) The USTR, after receiving the advice of the TPSC, TPRG, or Cabinet-

level officials, shall make recommendations to the President on any proposed action to modify the application of the ATPA's benefits to countries or articles. The President (or if that function is delegated to the USTR, the USTR) shall announce in the FEDERAL REGISTER any such action he proposes to take. The USTR shall announce in the FEDERAL REGISTER notice of the results of the preliminary review, together with a schedule for receiving public input regarding such proposed action consistent with section 203(e) of the ATPA, as amended (19 U.S.C. 3202(e)).

(1) The schedule shall include the deadline and guidelines for any person to submit written comments supporting, opposing or otherwise commenting on any proposed action.

(2) The schedule shall also include the time and place of the public hearing, as well as the deadline and guidelines for submitting requests to present oral testimony.

(d) After receiving and considering public input, the Andean Subcommittee shall submit the results of the final review to the TPSC. The TPSC shall review the work of the Andean Subcommittee and shall conduct further review as necessary. The TPSC shall prepare recommendations for the President on any proposed action to modify the application of benefits under the ATPA to countries or articles. The Chairman of the TPSC may, as appropriate, convene the TPRG to review the matter, and thereafter refer the matter to the USTR for Cabinet-level review as necessary. The USTR, after receiving the advice of the TPSC, TPRG, or Cabinet-level officials, shall make recommendations to the President on any proposed action to modify the application of the ATPA's benefits to countries or articles, including recommendations that no action be taken. The USTR shall also forward to the President any documentation necessary to implement the recommended proposed action or actions to modify the application of the ATPA's benefits to countries or articles.

(e) In considering whether to recommend any proposed action to modify the ATPA, the Andean Subcommittee, on behalf of the TPSC, TPRG, or Cab-

net-level officials, shall review all relevant information submitted in connection with a petition or otherwise available.

#### § 2016.2 Timetable for reviews.

Beginning in calendar year 2003, reviews of pending petitions shall be conducted at least once each year, according to the following schedule, unless otherwise specified by FEDERAL REGISTER notice:

(a) September 15: Deadline for submission of petitions for review;

(b) On or about December 1: Announcement published in the FEDERAL REGISTER of the results of preliminary review;

(c) December/January: Written comments submitted and a public hearing held on any proposed actions;

(d) February/March: Preparation of recommendations to the President, Presidential decision, and implementation of Presidential decision.

#### § 2016.3 Publication regarding requests.

Following the Presidential decision and where required, the publication of a Presidential proclamation modifying the application of benefits under the ATPA to countries or articles in the FEDERAL REGISTER, USTR will publish a summary of the decisions made in the FEDERAL REGISTER, including:

(a) For petitions on which decisions were made, a description of the outcome of the review; and

(b) A list of petitions on which no decision was made, and thus which are pending further review.

#### § 2016.4 Information open to public inspection.

With the exception of information subject to § 2016.5, any person may, on request, inspect in the USTR Reading Room:

(a) Any written petition, comments, or other submission of information made pursuant to this part; and

(b) Any stenographic record of any public hearings held pursuant to this part.

**§ 2016.5 Information exempt from public inspection.**

(a) Information submitted in confidence shall be exempt from public inspection if USTR determines that the disclosure of such information is not required by law.

(b) A person requesting an exemption from public inspection for information submitted in writing shall clearly mark each page “BUSINESS CONFIDENTIAL” at the top, and shall submit a non-confidential summary of the confidential information. Such person shall also provide a written explanation of why the material should be so protected.

(c) A request for exemption of any particular information may be denied if USTR determines that such information is not entitled to exemption under law. In the event of such a denial, the information will be returned to the person who submitted it, with a statement of the reasons for the denial.

**APPENDIX A TO CHAPTER XX—ADMINISTRATION OF THE TRADE AGREEMENTS PROGRAM**

Text of Executive Order No. 11846 of Mar. 27, 1975 (40 FR 14291).

By virtue of the authority vested in me by the Trade Act of 1974, hereinafter referred to as the Act (Pub. L. 93–618, 88 Stat. 1978), the Trade Expansion Act of 1962, as amended (19 U.S.C. 1801), section 350 of the Tariff Act of 1930, as amended (19 U.S.C. 1351), and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

**SECTION 1. *The Trade Agreements Program.*** The “trade agreements program” includes all activities consisting of, or related to, the negotiation or administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution, section 350 of the Tariff Act of 1930, as amended, the Trade Expansion Act of 1962, as amended, or the Act.

**SEC. 2. *The Special Representative for Trade Negotiations.*** (a) The Special Representative for Trade Negotiations, hereinafter referred to as the Special Representative, in addition to the functions conferred upon him by the Act, including section 141 thereof, and in addition to the functions and responsibilities set forth in this Order, shall be responsible for such other functions as the President may direct.

(b) The Special Representative, except where otherwise expressly provided by stat-

ute, Executive order, or instructions of the President, shall be the chief representative of the United States for each negotiation under the trade agreements program and shall participate in other negotiations which may have a direct and significant impact on trade.

(c) The Special Representative shall prepare, for the President’s transmission to Congress, the annual report on the trade agreements program required by section 163(a) of the Act. At the request of the Special Representative, other agencies shall assist in the preparation of that report.

(d) The Special Representative, except where expressly otherwise provided or prohibited by statute, Executive order, or instructions of the President, shall be responsible for the proper administration of the trade agreements program, and may, as he deems necessary, assign to the head of any Executive agency or body the performance of his duties which are incidental to the administration of the trade agreements program.

(e) The Special Representative shall consult with the Trade Policy Committee in connection with the performance of his functions, including those established or delegated by this Order, and shall, as appropriate, consult with other Federal agencies or bodies. With respect to the performance of his functions under Title IV of the Act, including those established or delegated by this Order, the Special Representative shall also consult with the East-West Foreign Trade Board.

(f) The Special Representative shall be responsible for the preparation and submission of any Proclamation which relates wholly or primarily to the trade agreements program. Any such Proclamation shall be subject to all the provisions of Executive Order 11030, as amended, except that such Proclamation need not be submitted to the Director of the Office of Management and Budget.

(g) The Secretary of State shall advise the Special Representative, and the Committee, on the foreign policy implications of any action under the trade agreements program. The Special Representative shall invite appropriate departments to participate in trade negotiations of particular interest to such departments, and the Department of State shall participate in trade negotiations which have a direct and significant impact on foreign policy.

**SEC. 3. *The Trade Policy Committee.*** (a) As provided by section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872), as amended by section 602(b) of the Act, there is established the Trade Policy Committee hereinafter referred to as the Committee. The Committee shall be composed of:

- (1) The Special Representative, who shall be Chairman.
- (2) The Secretary of State.
- (3) The Secretary of the Treasury.